

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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P.F. ,

24-CV-02333 (PMH)

Petitioner,

AFFIRMATION IN SUPPORT

– against –

Y.F.,

Respondent,

-----X

Menachem White, an attorney duly licensed to practice law in the State of New York, makes this affirmation under the penalties of perjury:

1. I am the attorney retained by the Petitioner, herein, and as such, I am fully familiar with the facts and circumstances of this case.

2. I submit this affirmation in support of the within application for an extension of time to serve the Respondent father, pursuant to Federal Rules of Civil Procedure 4.

3. In this action, the Petitioner seeks a default judgment against the Respondent. However, your affirmant has been unable to serve the Respondent since the Respondent has moved elsewhere.

4. The Respondent was served properly previously in this action.

5. However, since the date of commencement, upon information and belief, the Respondent has relocated with the children without providing a forwarding address.

6. Your affirmant attempted to serve the Respondent personally. However, your affirmant was unsuccessful. Annexed hereto as Exhibit A is the affidavit of attempted service.

7. As the annexed Affidavit of Attempted Service attest, my client engaged a licensed process server, Tyler Hammer, to serve the Respondent. The process server attempted to serve the Respondent. However, the process server was informed that the Respondent has moved.

8. It should be noted that the Respondent has appeared in this matter by filing a letter with this court.

9. Your affirrant has done an online search for the Respondent's location but has been unable to find him on Facebook, Instagram, LinkedIn or any other social media website.

10. The Respondent has shown his ability to hide as in this case, the Respondent kidnapped the children to the United States and is hiding his whereabouts and that of the children at this time.

11. [Rule 4\(m\)](#) provides

If a defendant is not served within 120 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

*FRCP 4(m)*.

12. The Second Circuit Court of Appeals has ruled that the Second Circuit has interpreted this rule to give wide latitude to courts in deciding when to grant **extensions on time to serve**, including permitting courts to grant extensions even absent good cause. *Gerena v. Korb*, 617 F.3d 197 (2d Cir, 2010) citing [Zapata v. City of New York](#), 502 F.3d 192, 195 (2d Cir.2007).

13. Although an extension of time is not mandatory in the absence of good cause, the Court may in its discretion extend the time to complete service. *AIG MANAGED MARKET, ET AL v. ASKIN CAPITAL MGMNT., ET AL*, 197 F.R.D. 104 (SDNY, 2000) citing Advisory Committee Notes to [Fed.R.Civ.P. 4\(m\)](#) (amended [Rule 4\(m\)](#) “authorizes the court to relieve a plaintiff of the consequences of an application of this subdivision even if there is no good cause shown”); see also [Petrucelli v. Bohringer and Ratzinger](#), 46 F.3d 1298, 1305 (3d Cir.1995); [Rupert v. Metro–North Commuter R.R. Co.](#), No. 95 Civ. 4283, 1996 WL 447745, at \*2 (S.D.N.Y. Aug. 7, 1996) (citing cases); see also [Henderson v. United States](#), 517 U.S. 654, 658 n. 5, 116 S.Ct. 1638, 134 L.Ed.2d 880 (noting that current [Rule 4\(m\)](#) “permits a district court to enlarge the time for service ‘even if there is no good cause shown.’”) (quoting [Rule 4\(m\)](#)).

14. Furthermore, your affirmant does not have a number to reach the Respondent or text the Respondent and request their address.

15. Additionally, it is requested, that based upon the inability to find the Respondent, time for service be extended to 60 days.

16. A previous application was made. However it was denied without prejudice due to issues with the paperwork.

WHEREFORE, it is respectfully requested that this application be granted in its entirety and for any further relief that this Court may deem just and proper.

Dated: Woodmere, NY  
January 9, 2025

*Menachem White*

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MENACHEM WHITE, ESQ.  
Attorney for the Petitioner  
4 Brower Avenue, Suite 3  
Woodmere, New York 11598

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

24-CV-02333 (PMH)

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NOTICE OF MOTION AND AFFIRMATION IN SUPPORT

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Law Office of Menachem White, PLLC  
By Menachem White, Esq.  
Attorney(s) for Petitioners  
4 Brower Avenue, Suite 3  
Woodmere, New York 11598  
(516) 504-4101

To:

Signature (Rule 130-1.1-a)

*Menachem White*

MENACHEM WHITE, ESQ.

Attorney(s) For Plaintiff

Service of a copy of the within is hereby admitted.  
Dated:

PLEASE TAKE NOTICE:

☐ NOTICE OF ENTRY

That the within is a (certified) true copy of a duly entered in the office of the clerk of the within named court on

☐ NOTICE OF SETTLEMENT

Dated:

Yours, etc.